

Message Text

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PAGE 01 GENEVA 09353 01 OF 02 201551Z
ACTION STR-07

INFO OCT-01 STRE-00 ISO-00 AF-10 ARA-10 EA-10 EUR-12
NEA-11 IO-13 DOEE-00 OIC-02 AGR-05 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05
SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
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FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 1087
INFO AMEMBASSY BERN
AMEMBASSY BRUSSELS
AMEMBASSY HELSINKI
AMEMBASSY MEXICO
AMEMBASSY OSLO
AMEMBASSY OTTAWA
AMEMBASSY STOCKHOLM
AMEMBASSY TOKYO

LIMITED OFFICIAL USE SECTION 01 OF 02 GENEVA 09353

USMTN

STR FOR ACTION

STR PASS CODEL

E.O. 11652: N/A
TAGS: MTN, ETRD
SUBJECT: MTN: INFORMAL PLURILATERAL MEETING ON LICENSING
- TEXTS, JUNE 16, 1978

1. SUMMARY: AT INFORMAL PLURILATERAL MEETING ON
LICENSING TEXTS, PARTICIPANTS, INCLUDING A RELUCTANT
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PAGE 02 GENEVA 09353 01 OF 02 201551Z

EC, EVIDENCED WILLINGNESS TO ENGAGE IN A DRAFTING
EXERCISE. ALTHOUGH NO APPARENT CHANGES IN POSITIONS
HAVE OCCURRED, THE SWISS AND NORDIC DELS, WHO FAVOR
AUTOMATIC IMPORT LICENSING (AIL) FOR SURVEILLANCE PUR-
POSES, CONSIDERED THE U.S. POSITION CLOSE TO THEIRS.
ON LICENSING TO ADMINISTER IMPORT RESTRICTIONS (LAIR),
THE SWISS AND EC FAVORED AN ADDITIONAL NOTE TO THE

TEXT TO COVER DISCRETIONARY LICENSING. MEXICO PUT FORWARD A NUMBER OF PROPOSALS FOR SPECIAL AND DIFFERENTIAL TREATMENT (S&D), INCLUDING ABOLITION OF AIL AND LAIR BY DEVELOPED COUNTRIES. U.S. WILL ORGANIZE A DRAFTING EXERCISE WITHIN THE NEXT TWO WEEKS. END SUMMARY.

2. AT U.S. INITIATIVE, AN INFORMAL PLURILATERAL MEETING WAS CONVENED ON THE TWO DRAFT LICENSING TEXTS. U.S. DEL (WALLAR) NOTED THAT THE SHORT TIME REMAINING IN THE MTN IS ADEQUATE TO DEAL WITH THE RELATIVELY SHORT AND STRAIGHT FORWARD LICENSING TEXTS. SWITZERLAND (LEMPEN), NORDICS (HAGFORS), CANADA (LE BLANC), JAPAN (IINO), AUSTRALIA (HELY) AND NEW ZEALAND (GREIG) ALL EVIDENCED WILLINGNESS TO ENGAGE IN A CLEANING UP OF THE HEAVILY BRACKETED DRAFT LICENSING TEXTS. THE EC (HEISLER) SAID THAT THEY WOULD NOT OPPOSE THE WORK, BUT QUESTIONED THE UTILITY OF DRAFTING BEFORE KEY ISSUES WERE RESOLVED IN THE TEXTS AND THEY HAVE A CLEARER IDEA OF THE OUTCOME OF THE NEGOTIATIONS ON SAFEGUARDS AND QR'S. OTHER DELS DID NOT SHARE THIS OPINION, WITH U.S. AND NEW ZEALAND COMMENTING THAT SUCH AN APPROACH WAS NOT HELPFUL IN NARROWING AREAS OF DISAGREEMENT SO THAT THE MAJOR ISSUES ARE FRAMED FOR A DECISION.

3. AIL: U.S. DEL NOTED THAT U.S. IS WILLING TO CONSIDER POSSIBLE DISCUSSION OF AIL FOR SAFEGUARD RELATED PURPOSES, AND CHALLENGED DELS TO PROVIDE EXAMPLES WHERE LIMITED OFFICIAL USE

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PAGE 03 GENEVA 09353 01 OF 02 201551Z

TRULY AUTOMATIC SYSTEMS WERE NECESSARY IN OTHER SITUATIONS. NORDICS AND SWISS SAID THAT AIL USED FOR SURVEILLANCE IS DESIGNED TO PRECLUDE NECESSITY FOR SAFEGUARDS MEASURES. SWISS CONSIDER THAT A CLEAR DEFINITION REGARDING THE MODALITY OF THE SYSTEM (I.E., TRULY AUTOMATIC) IS MORE IMPORTANT THAN REASONS FOR THE USE OF AIL. HE FEARS THAT CITING OF REASON FOR SYSTEM (E.G. SAFEGUARD SITUATION) MIGHT BE USED AS JUSTIFICATION FOR SYSTEM EVEN THOUGH IT IS NOT AUTOMATIC. U.S. NOTED ITS DESIRE TO LIMIT THE PRETEXTS FOR AIL, THEREBY REDUCING THEIR USE AND THE POSSIBILITY THAT THEY MIGHT BECOME LESS THAN AUTOMATIC.

4. ON S&D, MEXICO (ALVAREZ, FUENTES) PROPOSED THAT DC'S ADOPT A STANDSTILL ON PRODUCTS SUBJECT TO AIL AND DC'S EVENTUALLY ABOLISH ALL AIL'S. NORDICS, CANADA, EC, NEW ZEALAND, AND SWISS OPPOSED THE MEXICAN IDEA, NOTING THAT AN AUTOMATIC SYSTEM, FOLLOWING THE DISCIPLINE ENVISAGED BY THE DRAFT TEXT, WOULD NOT RESTRICT TRADE. THEY ASSERTED THAT AIL IS NECESSARY TO GATHER IMPORT STATISTICS AND IS APPLIED TO DIFFERENT PRODUCTS OVER A PERIOD OF TIME. AUSTRALIA SAID THAT,

SHORT OF ELIMINATION, THEY FAVORED THE CANADIAN COM-PROMISE TEXT FOR AN ELIMINATION OF AIL WHEN CIRCUMSTANCES GIVING RISE TO ITS ADOPTION NO LONGER PREVAIL. AS RATION-ALE FOR THEIR PROPOSAL, MEXICO EXPLAINED THAT LICENSING TEXTS WOULD IMPOSE SUBSTANTIAL OBLIGATIONS ON LDC'S, BUT NOT ON DC'S. THEREFORE THEY ARE LOOKING FOR BALANCE IN THESE NEGOTIATIONS. U.S. AND CANADA STATED THAT, IN THEIR VIEW, LICENSING IS AN AREA WHERE LDC'S CAN MAKE SIGNIFICANT CONTRIBUTIONS TO THE MTN.

5. THE SWISS QUERIED WHETHER THE TEXT WOULD APPLY TO ALL PRODUCTS, COMMENTING THAT PRODUCT COVERAGE MIGHT HAVE SUBSTANTIVE IMPLICATIONS ON THE TEXT. THE EC SAID THAT THE TEXTS CAN COVER ONLY INDUSTRIAL PRODUCTS, LIMITED OFFICIAL USE

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PAGE 04 GENEVA 09353 01 OF 02 201551Z

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PAGE 01 GENEVA 09353 02 OF 02 201558Z
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INFO AMEMBASSY BERN
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LIMITED OFFICIAL USE SECTION 02 OF 02 GENEVA 09353

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WHILE THE NORDICS SUGGESTED THE QUESTION BE LEFT UNTIL THE END OF THE DAY, THE U.S. REGISTERED THE FACT THAT THE SUBGROUP'S COMPETENCE WAS NOT LIMITED TO INDUSTRIAL PRODUCTS. WE SUGGESTED, AND THERE WERE NO OBJECTIONS, THAT THE GROUP ADOPT THE WORKING HYPOTHESIS, AS IN THE STANDARDS SUBGROUP, THAT THE TEXT COULD BE APPLIED ACROSS THE BOARD WITH A FINAL DECISION ON AGRICULTURAL COVERAGE LEFT UNTIL THE END OF THE DAY.

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PAGE 02 GENEVA 09353 02 OF 02 201558Z

6. MEXICO PROPOSED THAT THE LICENSING AGREEMENT BE SEPARATE FROM THE GATT AND THAT A SURVEILLANCE BODY BE ESTABLISHED TO EXAMINE THE IMPLEMENTATION OF THE AGREEMENT. CANADA POINTED TO PROVISIONS FOR CONSULTATION (PARA 11) AS MEETING MEXICAN CONCERNS. MOST DELS CONSIDER THAT THE NEED FOR SURVEILLANCE AND CONSULTATION PROVISIONS IS LINKED TO THE OUTSTANDING ISSUE REGARDING THE RELATIONSHIP OF THE DRAFT TO GATT. AUSTRALIA QUERIED WHETHER THE TEXTS WENT BEYOND CURRENT GATT OBLIGATIONS (IMPLYING THE NECESSITY FOR AN INDEPENDENT BODY) WHILE THE SWISS SUGGESTED THAT AN INTERPRETATIVE NOTE TO GATT MIGHT EMERGE FROM THE TEXTS SINCE THE OBLIGATIONS ENVISAGED MERELY ADD PRECISION TO CURRENT GATT OBLIGATIONS.

7. THE EC AND SWISS AGREED WITH THE PROPOSED REQUIREMENT TO PUBLISH AIL RULES AND PRODUCT COVERAGE, BUT ASSERTED THAT NOTIFICATION TO INTERNATIONAL BODY IS AN ADMINISTRATIVE BURDEN. AUSTRALIA, CANADA, AND U.S. REGARDED ANY ADMINISTRATIVE BURDEN WORTHWHILE TO ENSURE TRANSPARENCY OF AIL SYSTEMS.

8. THE SWISS NOTED ITS PROPOSAL FOR TEXT TO COVER EXPORT MEASURES. AS IN THE PAST, CANADA AND MEXICO MAINTAIN THAT THEY ARE NOT WILLING TO DISCUSS THE TOPIC AT ALL.

9. LAIR: DISCUSSION ON LAIR REPEATED MANY OF THE POINTS MADE ABOVE ON AIL, INCLUDING MEXICAN PROPOSAL FOR DC STANDSTILL ON USE OF LAIR AND EVENTUAL ABOLITION BY DC'S OF LAIR. IN DISCUSSING THE SCOPE OF THE TEXT, MEXICO PROPOSED THAT THE TITLE BE CHANGED TO "NON-AUTOMATIC IMPORT LICENSES". IN ADDITION, LANGUAGE

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PAGE 03 GENEVA 09353 02 OF 02 201558Z

WOULD BE INSERTED TO THE EFFECT THAT THE TEXT COVERS ALL NON-AUTOMATIC SYSTEMS, INCLUDING PRACTICES WITH AN EQUIVALENT EFFECT. EC, SWITZERLAND AND CANADA NOTED THAT THE TEXT EXPLICITLY COVERS ONLY IMPORT RESTRICTIONS (E.G. QR'S) AND THAT A NOTE POSSIBLY COULD BE ADDED TO COVER DISCRETIONARY LICENSING. U.S. OBSERVED THAT THE PRINCIPLES OF THE TEXT SHOULD APPLY TO DISCRETIONARY LICENSING SYSTEMS AND REMARKED THAT A NOTE COULD WEAKEN THE EFFECTIVENESS OF THE TEXT FOR SUCH SYSTEMS.

10. FUTURE WORK: THE GROUP AGREED THAT THE NEXT STEP SHOULD BE TO ENGAGE IN A DRAFTING EXERCISE. ALL DELS TURNED TO THE U.S. TO ORGANIZE THE NEXT SESSION, IN ABOUT TWO WEEKS. MOST DELS AGREED, WITH MINOR MEXICAN RESERVATION, TO PROCEED PARAGRAPH BY PARAGRAPH, LEAVING ISSUES OF CONTROVERSY TO THE SIDE FOR THE MOMENT AND SETTING FORTH POSSIBLE ALTERNATIVES IN BRACKETS. U.S. URGED DELS TO CIRCULATE ANY CONCRETE PROPOSALS THEY MIGHT HAVE (I.E. MEXICO) PRIOR TO DRAFTING SESSIONS.

11. DRAFTED BY WALLAR' CULBERT

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